

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

MIS. CIVIL APPLICATION (ST) NO.14019 OF 2018

Prasad Jaya Salian ... Applicant
Vs
Dayavathi Prasad Salian ... Respondent
...
Mr. Sanjay A. Ghaisas for the Applicant.
Mr. Hemant Ghadigaonkar for the Respondent.

CORAM : SANDEEP K. SHINDE J.
DATE : 18 FEBRUARY, 2019

P.C. :

It is an application under Section 24 of the Code of Civil Procedure, 1908 whereby the applicant-husband seeks to transfer following three proceedings from the Family Court, Bandra, Mumbai to the District Court at Vasai:

- (I) Petition No.A-2282 filed by the respondent-wife for restitution of conjugal rights;
- (II) Petition No.C-149 of 2013 filed by the respondent-wife for maintenance;
- (III) Petition No.A-533 filed by the applicant-husband for dissolution of marriage.

. Besides, respondent-wife has filed proceedings under the Domestic Violence Act in the Court of Metropolitan Magistrate, Bandra at Mumbai. Essentially, transfer is sought on the ground of ill health of the applicant-husband. He has undergone pituitary tumour surgery in January, 2008 as certified by Dr. Uday B. Andar. Applicant-husband is under his treatment who is attached to Bombay Hospital and Bhatia Hospital at Mumbai. It is submitted that the applicant has shifted his residence from Mumbai to Vasai and the medical advice does not permit him to travel from Vasai to Mumbai.

2 I have perused the application and the medical certificate issued by the Bhatia Hospital. It shows that he has serious ailments and undergoing the treatment at the said hospital. This application is opposed by the respondent by filing affidavit sworn on 14th January, 2019.

3 To resolve the issue, office was directed to find out whether there is video conferencing facility in District Court at Vasai. In response thereto, it is submitted by the office that the facility is available and evidence could be recorded through the video conferencing. However, the learned counsel for the respondent submitted that proceedings under the Domestic Violence Act filed by the wife is pending at Bandra, Mumbai which the applicant-husband may have to attend. He further submitted that even otherwise applicant-husband is required to attend the Bhatia Hospital for his regular check-up and, therefore, even if the evidence is recorded by video conferencing, the applicant-husband may have to visit Mumbai to attend the proceedings under the Domestic Violence Act.

4 I do find some substance in the submission of the learned counsel for the respondent. Taking into consideration serious ailment which the applicant-husband suffers from, in my view, if the Family Court is directed to tag aforesaid three petitions together, least inconvenience would be caused to the applicant-husband.

5 Thus, for the reasons stated here-in-above, the learned Judge Family Court, Bandra is directed to hear following three Petitions together and dispose of the same simultaneously:

- (i) Petition No.A-2282 filed by the respondent-wife for restitution of conjugal rights;
- (ii) Petition No.C-149 of 2013 filed by the respondent-wife for maintenance;
- (iii) Petition No.A-533 filed by the applicant-husband for dissolution of marriage.

6 The learned Judge, Family Court, Bandra shall exempt presence of the applicant-husband unless it is indispensable. It is further directed that considering the health of the applicant-husband, all efforts shall be made to cause least inconvenience to him.

7 Both the parties are directed to appear before the learned Judge, Family Court, Bandra on 5th March, 2019 and file application along with authenticated copy of this order and request the learned Judge to club three petitions and hear the same as expeditiously as possible.

8 With the aforesaid directions, application is disposed of .

(SANDEEP K. SHINDE, J.)